

TAX AUDIT REPORT

U/s 44AB of Income Tax Act, 1961

by

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Applicability

- Tax audit is applicable to every person i.e. i.e. individual, HUF, Company, Partnership firm, AOP/BOI, Local authority, Co-operative society/Trust, AJP based on the below mentioned **Nature of Activity & Criteria.**

Business

- Total Sales/Turnover/Gross Receipts Exceeds Rs.1 Crore

Profession
(specified u/s 44 AA)

- Gross Receipts Exceeds Rs.50 Lakhs

Business
(u/s 44AE,
44BB , 44BBB)

- Profits/Gains are declared at **lower** than Profits/Gains deemed to be declared under these sections.

Business
(u/s 44AD)

- Profits/Gains disclosed is **lower** than 8% or 6%(via Account Payee cheque or electronic form) Turnover or Gross Receipts.
- (*Turnover/Gross Receipts being less than Rs.2 crores*)

Profession
(u/s 44ADA)

- Profits/Gains disclosed are **lower** than 50% of Gross Receipts.
- (*Gross Receipts being less than Rs.50 Lakhs*)

Tax Audit Report

- Every person to whom tax audit is applicable should get his accounts audited by an accountant before the prescribed due date.
- Such accountant should give the Audit report and other particulars in the forms prescribed.

Tax Audit

3CA

In case of person who is required to get his accounts audited under any other law

3CB –

In case of persons who are not required to submit 3CA

3CD-

The other particulars are required in Form 3CD

Rule 6G, Income Tax Rules

Report of audit of accounts to be furnished under section 44AB.

(1) The report of audit of the accounts of a person required to be furnished under section 44AB shall,—

(a)

in the case of a person who carries on business or profession and who is required by or under any other law to get his accounts audited, be in Form No. 3CA;

(b)

in the case of a person who carries on business or profession, but not being a person referred to in clause (a), be in Form No. 3CB.

(2) The particulars which are required to be furnished under section 44AB shall be in Form No. 3CD.]

Special feature of 3CB

It may be noted that the audit report in Form No.3CB is in two parts.

The **first part** requires the tax auditor to give his opinion as to whether or not the accounts audited by him give a true and fair view:

- (i) In the case of the balance sheet, of the state of affairs as at the last date of the accounting year.
- (ii) in the case of the profit and loss account, of the profit or loss of the assessee for the relevant assessment year.

The **second part** of the report states that the statement of particulars required to be furnished under section 44AB is annexed to the audit report in Form No. 3CD. The tax auditor is required to give his opinion whether the prescribed particulars furnished by the assessee are true and correct, subject to observations and qualifications.

“Assessee’s Responsibility for the Financial Statements and the Statement of Particulars in Form 3CD

- 1. The assessee is responsible for the preparation of the aforesaid financial statements that give a true and fair view of the financial position and financial performance of the entity.*
- 1. The assessee is also responsible for the preparation of the statement of particulars required to be furnished under section 44AB Income-tax Act, 1961 annexed herewith in Form No. 3CD read with Rule 6G(1)(b) of Income Tax Rules, 1962 that give true and correct particulars as per the provisions of the Income-tax Act, 1961 read with Rules, Notifications, circulars etc. that are to be included in the.*

Tax Auditor's Responsibility

3. *Tax Auditor's responsibility is to **express an opinion** on these financial statements based on his audit*
4. *Tax Auditor needs to collect sufficient and appropriate to provide a basis for his audit opinion.*
5. *Tax Auditors are also responsible for verifying the statement of particulars required to be furnished under section 44AB of the Income-tax Act, 1961 annexed herewith in Form No. 3CD read with Rule 6G (1) (b) of Income-tax Rules, 1962. He should conduct the verification of the statement in accordance with Guidance Note on Tax Audit under section 44AB of the Income-tax Act, 1961, issued by the Institute of Chartered Accountants of India."*

Is Revision of TAR possible?

- Generally revision of Tax Audit Report is **not advisable** but in certain **conditions** the same can be revised:
- Revision of accounts of company after its adoption in AGM.
 - Change in law.
 - Change in interpretation of law.
 - Any other technical issues.
- There is no time limit for revision of TAR
- After revising the TAR, the revised report should be in line with SA 560 (Subsequent events) in **which reasons for revision should be mentioned.**
(mandatory requirement)

Other Points

- Can auditor revise TAR voluntarily:
 - Yes, Auditor can revise tax audit report voluntarily, if
 - it comes to the knowledge of auditor that his **client is engaged in another business also &**
 - the **same has not been disclosed** to him at the time of the filing original Tax Audit report.
- In case of Joint auditors:
 - As the TAR need to be filed by **one auditor**, all the Joint auditors shall mutually agree and decide as to who shall file the same.
 - But the Audit report need to be **signed by all the auditors** in view of SA-299.
 - If there are discrepancies between the Joint auditors then **each auditor should express own opinion** through a separate report.

Important considerations for Tax Auditor

Form 3CD

- The information in Form No.3CD should be **based on the books of account, records, documents, information and explanations** made available to the tax auditor for his examination.
- If a particular item of income/ expenditure is **covered in more than one of the specified clauses** in the statement of particulars, **a suitable cross reference** to such items at the appropriate places.
- If there is any **difference in the opinion** of the **tax auditor & that of the assessee** in respect of any information furnished in Form No. 3CD, the tax auditor should state both the view points and also the relevant information in order to enable the tax authority to take a decision in the matter.
- In computing the allowance/ disallowance, the **law applicable in the relevant year should keep in view**, even though the form of audit report may not have been amended to bring it in conformity with the amended law.
- In case the **auditor relies on a judicial pronouncement**, mention the fact as his observations in **clause (3) of Form No.3CA or clause (5)** provided in Form No.3CB, as the case may be
- The Tax Auditor may **qualify his report on matters in respect of which information is not furnished** to him and **state** in his report that the **relevant information has not been furnished by the assessee.**

WHO CAN CONDUCT AUDIT

“Accountant” means a chartered accountant within the meaning of Chartered Accountants Act, 1949 (38 of 1949) and includes, in relation to any State, any person, who by virtue of the provisions of sub-section (2) of section 226 of the Companies Act, 1956 (1 of 1956), is entitled to be appointed to act as an auditor of companies registered in that State." **As stated earlier, section 226 of the Companies Act, 1956 has been replaced with section 141 in the Companies Act, 2013 with effect from 1.04.2014.**

A co-operative society where the accounts have been audited by a person other than a chartered accountant, the tax audit will have to be conducted by the ‘**accountant**’ as defined under section 44AB.

Section 44AB **does not stipulate that only the statutory auditor** should perform the tax audit. So there can be different Statutory and Tax auditors.

Failure to comply with Sec 44AB

As per Section 271B:

- If any person fails to comply with the provisions of the Section 44AB then penalty will be levied by the Assessing Officer which shall be minimum of the following amounts:

- 0.5% of the Total sales/Gross receipts/Turnover
(as the case may be)

Or

- Rs 1,50,000/-



which ever is Lower

U/s 271J: Penalty of Rs.10,000/- is levied for furnishing incorrect information in reports or certificates by an accountant.

Approach towards Tax Audit

- Fact Based Reporting Vs. Opinion Based Reporting:
 - We need to Certify *True and Correct* Vs. **True and Fair View**
- Not all reported items are disallowed
- Primary responsibility of Management to compile the information
- Tax Audit is also **part of Peer Review** since it is also an attest function
- Reliance / Binding Nature of Guidance Note of ICAI.
- **Documentation** - MRL, DSC, working Papers and other Annexures, signature of the assessee is must.

List of Clauses – 3CD Part A

Clause No.	Particulars
1.	Name of the Assessee
2.	Address of the Assessee
3.	Permanent Account Number(PAN)
4.	Whether the assessee is liable to pay indirect tax (GST). If yes, furnish the registration no./ identification no. allotted for the same.
5.	Status
6.	Previous year
7.	Assessment year
8.	Relevant clause of the section 44AB under which audit has been conducted

List of Clauses – 3CD Part B

Clause No.	Particulars
9.	<p>(a) If firm or association of persons, indicate names of partners/members and their profit sharing ratios.</p> <p>(b) If there is any change in the partners or members or in their profit sharing ratio since the last date of the preceding year, the particulars of such change.</p>
10.	<p>(a) Nature of business or profession (if more than one business or profession is carried on during the previous year, nature of every business or profession)</p> <p>(b) If there is any change in the nature of business or profession, the particulars of such change.</p>

Form 3CD – Part B

Additions/Amendments in clauses	Nature of Item	Response
Clause 11	<p><u>Clause 11(a)</u> Whether books of account are prescribed under Section 44AA, if yes, list of books so prescribed</p> <p><u>Clause 11 (b)</u> List of books of account maintained and the address at which the books of accounts are kept. (even if maintained electronically)</p> <p><u>Clause 11 (c)</u> List of books of account and nature of relevant documents examined</p>	<ul style="list-style-type: none">• In case the books of accounts are kept at more than one location then auditor is required to mention the details of address of each location along with the BOA maintained.• The auditor should make a checklist of the details asked and hand it over to assessee for getting the data.

Clause 12 – Presumptive Income Disclosure

- Whether the profit and loss account includes any profits and gains assessable on presumptive basis, if yes, indicate the amount & the relevant section:

Under Section	Nature of Business Activity
44AD	Eligible Business/Assessee (Individual, HUF, Firm)
44AE	Transport Business – Not exceeding 10 Vehicles
44B	Shipping Business of Non – Resident
44BB	Non Resident providing Services in prospecting or extraction of mineral oils
44BBA	Operation of Aircraft by Non Resident
44BBB	Civil Construction in Turnkey Power Project by non residents
Chapter- XII-G	Shipping Business
First Schedule	Insurance Business

Different Situations and How to Deal with it

Situation	Response
1) Profit & Loss Account includes income of the business assessable under the scheme of presumptive scheme	This situation may give rise to the problem of apportionment of common expenditure in order to arrive at the correct amount of profit credited to profit and loss account and assessable on a presumptive Basis In such a situation, the endeavour of the tax auditor should be to arrive at a fair and reasonable estimate of such expenditure on the basis of evidence in possession of the assessee or by asking the assessee to prepare such estimate which should be checked by him. It is also necessary to mention the basis of apportionment of Common expenditure. However, if the tax auditor is not satisfied with the reasonableness of such apportionment, he should indicate such fact.

Situation	Response
<p>2) Income from presumptive scheme is directly credited to profit & Loss Account & No separate books of account is maintained for presumptive business</p>	<p>Here, the tax auditor is unable to satisfy himself about the correctness of the net income from the presumptive business credited to the profit and loss account He should, therefore, state the amount of income as appearing in the profit and loss account, with a suitable note expressing his inability to verify the said figure In the absence of books of account, the tax auditor would be unable to form an opinion about the true and fair view of the profit and loss account or balance sheet of the assessee and therefore, it would become necessary for him to qualify his report.</p>

Presumptive Taxation

To get relief to from this tedious work of maintenance of Books of accounts, a small taxpayer can opt for presumptive taxation under section 44AD, 44AE or 44ADA upon satisfaction of the prescribed conditions:

- Deemed net profit will be as under:
 - 1. Non Cash Sales** (Receipts through Online Transfer, Account Payee Cheque/ Draft, NEFT, RTGS) – Deemed Net Profit shall be 6% of Total Turnover or Gross Receipts. (To encourage non-cash payments through bank or digital channels)
 - 2. Cash Sales** – Deemed Profit shall be 8% of Total Turnover or Gross Receipts.

Clause – 13 Method of Accounting

Method of Accounting and Changes during previous year:

- As per provisions of Section 145
 - The income chargeable under the head “PGBP” or “Income from other source” must be computed in accordance with either cash or mercantile system of accounting regularly employed by the assessee.
- If any change in the **method of accounting** employed vis-a-vis the method employed in the immediately preceding previous year:
 - give details of such change, and the effect thereof on the P & L.
- **Adjustments to** be required to be made to Income or Loss to comply with **ICDS**.
 - give details of such adjustment, and the effect thereof on the P & L.

Clause -14(a) Method of valuation of closing stock employed in the previous year.

ICDS-II – Valuation of Inventories provides only two methods of valuation:

- FIFO or Weighted Average Method – commonly used methods to assign costs.
- Specific Identification of Cost Method – used in case of
 - Items that are not ordinarily interchangeable.
 - Goods and services produced and segregated for specific projects.

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(a) Method of valuation of closing stock employed in the previous year

(b) In case of deviation from the method of valuation prescribed under section 145A, and the effect thereof on the profit or loss, please furnish:

S.No.		Particulars	Increase in profit	Decrease in profit
1	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Clause -14 (b) In case of deviation from the method of valuation prescribed under section 145A, and the effect thereof on the profit or loss, please furnish.

1. Ascertain whether there is any deviation the method of valuation of closing stock as compared to the provisions contained in section 145A.
2. *Section 145A has been amended retrospectively from 01.04.2017, inventory shall be valued at **lower of actual cost or net realisable value** computed in accordance with the ICDS-II – Valuation of Inventories.*
3. The method of valuation is such that the value of closing stock includes the amount of any tax, duty, cess or fee actually paid or incurred.

Clause - 15. Capital asset converted into stock-in-trade:—

1. The capital gains arising from such a transfer will become chargeable in the previous year in which such converted asset is sold or otherwise transferred.
2. Such conversion treated as Transfer **U/s 2(47)**

S.No.		(a) Description of capital asset	(b) Date of acquisition	(c) Cost of acquisition	(d) Amount at which the asset is converted into stock-in trade
1	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Clause – 16. Amounts not Credited to P & L A/c

Amounts not credited to P & L A/c being


- a) The items falling within the scope of Section 28.
- b) The Performa credits, drawbacks, refund of duty of customs or excise or service tax or refund of sales tax, or Value Added Tax where such credits, drawbacks or refunds are admitted as due by the authorities concerned.
- c) Escalation claims accepted during the Previous Year.
- d) Any other item of income.
- e) Capital receipt, if any.

S.No.		Description	Amount
1	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>

Clause – 17. Where any land or building or both is transferred during the previous year for a consideration less than value adopted or assessed or assessable by any authority of a State Government referred to in section 43CA or 50C, please furnish

Details of Property	Address of Property	Consideration received/Accrued	Value Adopted /Assessed/Assessable
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Audit checklist for practical understanding :



Obtain particulars of all land or building or both transferred during the previous year.
Obtain following details :
(a) Consideration stated in transfer documents
(b) Value adopted or assessed or assessable by any authority of a State Government.

Clause - 18. Particulars of depreciation allowable as per the Income-tax Act, 1961 in respect of each asset or block of assets, as the case may be, in the following form :—


Description of the Block of Assets	Rate of Depreciation	Actual Cost/WDV	Additions/ Deletions with Dates*	Depreciation allowable	Written down value at the end of the year



***The following needs to be adjusted on Additions/Deletions of assets made during the year**

- Central Value Added Tax Credits Claimed.
- Change in rate of exchange currency.
- Subsidy or grant by whatever name called.

Clause – 19. Amounts Admissible under sections:

These sections allow for special deductions for prescribed businesses.

S.No.		Section	Amount debited to profit and loss account	Amounts admissible as per the provisions of the Income-tax Act, 1961 and also fulfils the conditions, if any specified under the relevant provisions of Income-tax Act, 1961 or Income-tax Rules,1962 or any other guidelines, circular, etc., issued in this behalf.
1	<input type="checkbox"/>	Select 	<input type="text"/>	<input type="text"/>

 Add  Delete

Clause - 20(a). Any sum paid to an employee as bonus or commission for services rendered, where such sum was otherwise payable to him as profits or dividend.

The Assessee would be allowed a deduction in respect of a payment made to an employee in the nature of a bonus or commission only if such bonus or commission was available exclusively to such employee in relation to the services rendered by him.

Clause - 20(b). Details of contributions received from employees for various funds as referred to in section 36(1)(va):

Sec 36(1)(va) : any sum received by the Assessee from any of his employees to which the provisions of Section 2(24)(x) apply, if such sum is credited by the Assessee to the employee's account in the relevant fund or funds on or before the due date.

The following funds are covered under this clause:

- Provident Fund
- Gratuity Fund
- Superannuation Fund
- Any Fund setup under the provisions of ESI Act,1948
- Any Other Welfare Fund

S.No.	Nature of fund	Sum received from employees	Due date for payment	The actual amount paid	The actual date of payment to the concerned authorities
1					

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Clause 21 – Capital, personal, advt. exps. debited to P & L

Clause 21(a):

Please furnish the details of amounts debited to the profit and loss account, being in the nature of capital, personal, advertisement expenditure etc.

- Capital Expenditure.
- Personal Expenditure.
- Advertisement expenditure published by a political party.
- *Expenditure incurred* :
 - at clubs (entrance fees, subscriptions, facilities used)
 - penalty or fine & other penalty or fine
 - Expenditure incurred for any purpose which is an offence / prohibited by law

Important points to be considered:

- Indicate separately capital expenses allowed as deduction in Computation of total income under the Act e.g., 32AC & 32AD
- Personal” is confined & related with assessee only. Company cannot have personal expenses because it is an artificial entity, which does not have personal needs and thus use of vehicles for directors cannot be treated as personal use by the company. [*Sayaji Iron and Engg. Co. v. CIT [2002] 253 ITR 749 (Guj.)*]

Clause 21(b) – Amounts inadmissible

(i) as payment to non-resident referred to in sub-Clause (i) of 40(a)

(A) Details of payment on which tax is not deducted

Date of Payment	Amount of Payment	Nature of Payment	Name of the payee	PAN of the payee	Address of the payee

(B) Details of payment on which tax has been deducted but has not been paid during the previous year or in the subsequent year before the expiry of time prescribed under Section 200(1)

Date of Payment	Amount of Payment	Nature of Payment	Name & Address of the payee	PAN of the payee	Address of the payee	Amount of Tax deducted

Clause 21(b) – Amounts Inadmissible

(viii) Under Section 40(a)(iv)

- Payment to PF and Other funds under subclause (iv)
 - Any payment to a provident or other fund established for the benefit of employees of the assessee, unless the assessee has made effective arrangements to secure that tax shall be deducted at source from any payments made from the fund which are chargeable to tax under the head "Salaries".
 - **Note: Premature withdrawal from PF before completion of 5 continuous years of service is subject to TDS u/s192A @ 10%.**

Disallowances on payments made

Particulars	Disallowances – Non Residents 40a(i)	Disallowances – Residents 40a(ia)	Disallowances – Non Residents 40a(ib)
Income	Interest, Royalty, Fees for technical services or Other sum	Any sum paid or payable	Any consideration paid or payable for specified service
Payable	<ul style="list-style-type: none"> • Outside India or • In India to non-resident 	-	-
Tax Deductible	TDS	TDS	Equalisation levy
Violation	<ul style="list-style-type: none"> • Such Tax has not been deducted • Having deducted, has not been paid on or before due date of furnishing the return 		
Amount of disallowance under head “PGBP”	100 % of such sum	30 % of such sum	100 % of such sum
<p>Provided if such tax is deducted or paid in subsequent year the same shall be allowed as deduction in subsequent year.</p>			

Clause 21(b) – Amounts Inadmissible

(ix) Under Section 40(a)(v)

- Any tax actually paid by an employer referred to in Clause (10CC) of Section 10.
 - *Section 10(10CC)- in the case of an employee, being an individual deriving income in the nature of a perquisite, not provided for by way of monetary payment, within the meaning of Sec. 17(2), the tax on such income actually paid by his employer, at the option of the employer, on behalf of such employee, notwithstanding anything contained in sec. 637AA of Companies Act, 2013.*

Clause 21(c): Amounts inadmissible under Section 40(a)

- Amounts debited to profit and loss account being, interest, salary, bonus, commission or remuneration inadmissible under Section 40(b)- Partnership Firm /40(ba) - AOP and computation thereof.

Clause 21(d) Disallowance or Deemed Income

Nature of item	Response
<p>(d) <u>Disallowance/deemed income under Section 40A(3):</u></p> <p>A. On the basis of the examination of books of account and other relevant documents/evidence, whether the expenditure covered under Section 40A(3) read with rule 6DD were made by account payee cheque drawn on a bank or account payee bank draft. If not, please furnish the details.</p> <p>A. On the basis of the examination of books of account and other relevant documents/evidence, whether the payment referred to in Section 40A(3A) read with rule 6DD were made by account payee cheque drawn on a bank or account payee bank draft If not, please furnish the details of amount deemed to be the profits and gains of business or profession u/s 40A(3A):</p>	<p>This new insertion has brought additional reporting under form 3CD regarding the cash expense.</p> <p>The auditor has to report two things specifically; That the cash payment during the previous year exceeding Rs. 10,000 per day. That the expense allowed previously in preceding years through accrual concept, for which cash payment is made beyond Rs. 10,000 should be treated as deemed income and reported here.</p> <p>The auditor need not obtain any certificate from assessee that section 40A(3) is duly complied , if complied.</p>



Clause 21 – Gratuity Payments

Clause 21(e): Provision for payment of gratuity not allowable under Section 40A(7);

○ Section 40A(7)-

- Subject to the provisions of Clause (b), **no deduction shall be allowed in respect of any provision** (whether called as such or by any other name) made by the assessee for the payment of gratuity to his employees on their retirement or on termination of their employment for any reason.
- Nothing in Clause (a) shall apply in relation to any provision made by the assessee for the purpose of payment of a sum by way of any contribution towards an approved gratuity fund, or for the purpose of payment of any gratuity, that has become payable during the previous year

Clause 21 – Interest on Capital borrowed

Clause 21(i): Amount inadmissible under the proviso to Section 36(1)(iii).

- Section 36(1)(iii) –

- The amount of the interest paid in respect of capital borrowed for the purposes of the business or profession would be allowed as a deduction in computing the income referred to in Section 28 of the Act.
- **Provided** that any amount of the interest paid, in respect of capital borrowed for acquisition of an asset ~~for extension of existing business or profession~~ (whether capitalized in the books of account or not); for any period beginning from the date on which the capital was borrowed for acquisition of the asset till the date on which such asset was first put to use, shall not be allowed as deduction. – AS -16 – Borrowing Cost
- Note: The requirements of this sub-clause are applicable in respect of capital borrowed for acquisition of an asset for extension of the existing business or profession.

Clause 22 – Interest inadmissible - MSME

Clause 22:

Amount of interest inadmissible under section 23 of the Micro, Small and Medium Enterprises Development Act, 2006.

Section 23 of the Micro, Small and Medium Enterprises Development Act, 2006 : lays down that an interest payable or paid by the buyer, under or in accordance with the provisions of this Act, shall not for the purposes of the computation of income under the Income-tax Act, 1961 be allowed as a deduction.

Tax Auditor need to Report:

- The tax auditor needs to report the amount of interest inadmissible under Section 23 of the MSMED Act, 2006 ***irrespective of whether the amount of such interest has been debited to Profit and Loss Account or not.*** In case the auditee has adopted mercantile system of accounting, the non-provision may affect true and fair view and the auditor should give suitable qualification.
- The tax auditor should verify that TDS under Section 194A is deducted from interest credited/ paid to MSEs and deposited with Central Government. [Clause 34 of Form No.3CD]

Clause 23 – Payments to Specified Persons

Clause 23

- Any expenditure incurred by an Assessee towards supply of Goods, Services, Facilities from specified persons should be reported.

Tax Auditor Shall report:

- Tax auditor should **obtain** from assessee, the **list of 'specified persons'** and **expenditure/payment made to them** and then scrutinize the items with reference to Sec. 40A(2).
- If information is **not available** about specified persons with the client, **suitable disclaimer may be given. MRL**
- **Amounts to be reported whether or not debited to Profit & Loss Account.**
- The item does **not require** report of the auditor as to his own inference, **whether the payment is excessive or unreasonable**. He is **required to specify the amounts paid to such related persons.**

Clause 23 – Payments to Specified Persons

Other Important Terms:

- “**Specific Person**” means relative, partners, members, directors or person having substantial interest.
- A person will be deemed to have a **substantial interest** in a business or profession if, (in case of a company) the person is beneficially owning the shares (other than the preference shares), carrying not less than 20% of the voting power and in any other case, person is entitled to not less than 20% of the profits of Business or Profession.
- Sec 40A(2) – Payment to Specific Persons is of the opinion that such payments is excessive or unreasonable having regard to the market value of goods or services or benefits derived there from. Then disallowance is excessive or unreasonable amount.

Clause 24 – Deemed Profits & Gains

Amounts deemed to be profits and gains under section 32AC or 32AD or 33AB or 33ABA or 33AC:

- Section 32AC (2) or 32 AD of the Act provides that if any of the plant and machinery on which deduction claimed u/s32AC(1)/(1A) has been sold/transferred within a period of 5 years the deduction allowed is deemed as Income in year of sale, except in case of merger, as profits and gains of business.

The auditor is required to report such deemed income if any interest of section 32AC(2) or 32AD.

The auditor is required to report the deemed income chargeable as profits and gains of business under the circumstances specified in sub-sections (2) of S. 32AC. Only because S. 32AC(2) provides for chargeability of deemed income under the head “profit and gains from business or profession” in addition to taxability of capital gains, the auditor is not required to report any capital gains/losses arising on transfer on the said asset. The tax auditor will be required to verify the compliance to the conditions of the provisions of S. 32AC and report the claim of deduction accordingly.

Clause 24 – Deemed Profits & Gains

Section 33AB

- It allows deduction in respect of Tea Development Account, Coffee Development Account and Rubber Development Account.
- It further provides that in case the amounts are drawn and not utilized for the purpose it is intended; are withdrawn on account of closure of business etc., then such amounts are taxable in the year of withdrawal.

The auditor is required to report

- The auditor is required to report the deemed income chargeable as profits and gains of business under the circumstances specified in sub-sections (4), (5), (7) and (8) of section 33AB.
- In case of respective industries where these are applicable special deductions are allowable.

Clause 24 – Deemed Profits & Gains

Section 33ABA

- It allows deduction in respect of Site Restoration Fund.
- It further provides that in case the amounts are drawn and not utilized for the purpose it is intended; are withdrawn on account of closure of business etc., then such amounts are taxable in the year of withdrawal.

The auditor is required to report

- The auditor is required to report the deemed income chargeable as profits and gains of business under the circumstances specified in subsections (5), (7) and (8) of section 33ABA. Where deduction has been claimed with respect to interest credited in Special Account or the Site Restoration Account, utilization of withdrawal thereof for purposes other than those specified shall be deemed to be income from business.

Clause 24 – Deemed Profits & Gains

Section 33AC

- It allows deduction in respect of reserve created out of the profit of the assessee engaged in shipping business to be utilized in accordance with the provision of sub-section (2) of section 33AC

The tax auditor is required to report

- The deemed income as chargeable as profits and gains of business under the circumstances specified in sub-sections (3) and (4) of section 33AC for the amount of reserves created on or before 31st March, 2004. However, consequent to the amendment made by the Finance (No. 2) Act, 2004, no deduction shall be allowed under section 33AC for any assessment year commencing on or after 1st day of April, 2005.

- ICAI Guidance Note suggests that the tax auditor should maintain the following information in his working papers for the purpose of reporting in the format provided in the e-filing utility.

Section	Description	Amount in Rs.

Clause 25 – Profit chargeable u/s 41

Clause 25

Any amount of profit chargeable to tax under section 41 and computation thereof

Tax auditor shall report

- Loss of the Previous Year in which business ceased to exist can be set off from the above deemed profit u/s 41.
- State Profit chargeable to Tax under this Clause, irrespective of the relevant amount credited to P&L A/c or not.
- Any amount already credited in P&L A/c is to be reported in this Clause.
- Computation of chargeable profit to be reported in this Clause.

S.No.	Name of the Person	Amount of Income	Section	Description of Transaction	Computation if any.;

Clause 26 - Reporting u/s 43B

In respect of any sum referred to in Clause (a), (b), (c), (d), (e) or (f) (g) of Section 43B, the liability for which :-

A. Pre-existed on the first day of the Previous Year but was not allowed in the assessment of any preceding Previous Year and was

(a) Paid during the Previous Year;

S.No.	Section	Nature of Liability	Amount

(b) Not paid during the Previous Year

S.No.	Section	Nature of Liability	Amount

Clause 26 - Reporting u/s 43B

B. Was incurred in the Previous Year and was

(a) Paid on or before the due date for furnishing the return of income of the previous year under section 139(1)

S.No.	Section	Nature of Liability	Amount

(b) Not paid on or Before the aforesaid date

S.No.	Section	Nature of Liability	Amount

Clause 27 – Details of Input tax Credits

Amount of Input Tax credits availed of or utilized during the previous year and its treatment in the profit and loss account and treatment of outstanding Input Tax credits in the accounts.

Clause 28: Shares received without/inadequate consideration

Nature of Item	Response
<p>Whether during the previous year the assessee has <u>received any property</u>, <u>Being shares of a company</u> in which the public are Not substantially interested, and there exists a consideration as referred to in <u>Section 56(2)(viiia)</u>, if yes, please furnish the details of the same.</p>	<ul style="list-style-type: none">• If no consideration : FMV > 50,000 , then FMV is taxable• If inadequate consideration : Such consideration – FMV > 50,000 then such difference is taxable.

Clause 30A – Transfer Pricing Adjustments

Clause 30A – new clause inserted vide CBDT notification w.e.f. 20.08.2018

(a) Whether primary adjustment to transfer price, as referred to in sub-section (1) of section 92CE, has been made during the previous year? (Yes/No)...

- if Yes, Please provide the following details:

Clause No. of Section 92CE	Amount of Primary Adjustment

Clause 30B – Interest Expenditure >Crore

Clause 30B – new clause inserted vide CBDT Notification w.e.f. 20.08.2018

Whether the assessee has incurred expenditure during the previous year by way of interest or of similar nature **exceeding one crore rupees** as referred to in sub-section (1) of section 94B? (Yes/No.)

Interest Expenditure	EBITDA	% of Interest to EBITDA	Amount of Interest Exceeding 30% to EBITDA
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Details	Assessment Year	Amount
Interest Expenditure Brought Forward		
Interest Expenditure Carried Forward		

Clause 30 C - Impermissible Avoidance Agreement - GAAR

Clause 30C

(a) Whether the assessee has entered into an impermissible avoidance arrangement, as referred to in section 96, during the previous year? (Yes/No.)

Clause – 31 -Cash Receipts and Payments

Particulars	269SS	269T	269ST
Scope of the section	Receipt of loans, deposits and specified sum	Payments of loans or deposits specified sum	No person should receive in cash in or relation to: <ul style="list-style-type: none"> • in aggregate from a person in a day; • in respect of a single transaction ; or • in respect of transactions relating to one event or occasion from a person
Applicability of this section	Any Person taking or accepting	Any person paying	Any person receiving any amount
Monetary Limit	INR 20,000	INR 20,000	INR 2,00,000
Penalty	U/s 271D	271E	271DA
		100%	



Clause 32 – Brought Forward Loss/Depreciation

Clause 32(a): Details of Brought forward loss or depreciation allowance to the extent available

S. No	Assessment Year	Nature of loss/ allowance	Amount as returned	Amount as assessed		Remarks
				Amount	Order u/s & date (according to E-utility)	

Clause 32 – Brought Forward Loss/Depreciation

Clause 32(b): Whether a change in shareholding of the company has taken place in the previous year due to which the losses accrued prior to the previous year cannot be allowed to be carried forward in terms of section 79.

Other Points:

- This Clause is not applicable when 51% of the voting power is held by the same persons at the last day of P.Y. & the last day of P.Y. in which loss was incurred.
- This provision also shall not apply to a change in the voting power consequent upon death, Gift to Relative.
- However, the overriding provisions of sec.79 do not affect the set off of **unabsorbed depreciation** (section 32(2)). [Refer **CIT v Concord Industries Ltd. (1979) 119 ITR 458 (Mad)**], **CIT v. Shri Subbulaxmi Mills Ltd. 249 ITR 795 (SC)**].

Clause 32 – Brought Forward Loss/Depreciation

- **Clause 32(c)** : Whether the assessee has incurred any speculation loss referred to in section 73.
- **Clause 32 (d)** : Whether the assessee has incurred any loss referred to in section 73A in respect of any specified business.
- **Clause 32 (e)** : In case of a company, please state that whether the company is deemed to be carrying on a speculation business as referred in explanation to section 73.

Clause 33 - Deductions u/c VI A or u/c III

Section-wise details of deductions, if any, admissible under Chapter VIA or Chapter III (Section 10A, Section 10AA).

Section under which deduction is claimed	Amounts admissible as per the provision of the Income Tax Act, 1961 and fulfils the conditions, if any, specified under the relevant provisions of Income Tax Act, 1961 or Income Tax Rules, 1962 or any other guidelines, circular, etc, issued in this behalf.

Clause 34 – Tax deduction/collection at source

Clause34(b)

Whether the assessee has furnished the statement of tax deducted or tax collected. If yes, please furnish the details of the same.

Tax Auditor shall report:

- Such details are required to provide, even if the assessee does not have any TDS defaults to show the assessee has complied with TDS wherever necessary.
- Auditor is required to get a copy of **justification report (downloaded from traces)**, when noticed that there are TDS defaults.

Tax deduction and collection Account Number (TAN)	Type of form	Due date of Furnishing	Date of Furnishing , if Furnished	Whether statement of tax deducted or collected contains information about all transactions which are required to be reported
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Clause 34 – Tax deduction/collection at source

- **Clause 34(c)** Whether the assessee is liable to pay interest under Section 201(1A) or Section 206C(7). If yes, please furnish:

Tax deduction and collection Account Number (TAN)	Amount of interest under section 201(1A)/206C(7) is payable	Amount paid out of column (2) along with date of payment	
		Amount	Date of Payment

Clause 35 – Trading Concern Quantitative Details

Clause 35(a):

In the case of a trading concern, give quantitative details **of principal items** of goods traded:

Item name	Unit Name	Opening stock	Purchases during the previous year	Sales during the previous year	Closing Stock	Shortage/ excess, if any

Clause 36 – Tax on Distributed Profits

- In the case of a domestic company, details of tax on distributed profits under section 115-O in the following form :-

Total amount of distributed profits	Amount of reduction as referred to in sec. 115-O(1A)(i)	Amount of reduction as referred to in sec. 115-O(1A)(ii)	Total tax paid thereon	Date of payment with amounts	
				Amount	Date of payment

37. Details of Cost Audit/38.Audit under Central Excise Act,1944./39.Service tax Audit.

- The tax auditor should ascertain from the management whether audit was carried out and if yes, a copy of the same should be obtained from the assessee. Even though the tax auditor is not required to make any detailed study of such report, he has to take note of the details of disqualification or disagreement on any matter/item/value/quantity as may be reported/identified by the cost/excise auditor. The tax auditor **need not express any opinion** in a case where such audit has been ordered but the same has not been carried out.
- In cases where cost audit which might have been ordered is **not completed** by the time the tax auditor issues his report, he has to report appropriately in this report stating that since cost audit is not completed and the cost audit report is not available with the assessee.

40. Details regarding turnover, Gross profit

41. Details of Demand raised/ refund issued under any other laws other than Income tax Act or wealth tax.

Clause 42. Details of SFT as per 285BA

- Form 61
- Form 61A
- Form 61B

Country by Country reporting

Clause 43 has been newly introduced in Form No. 3CD. The Finance Act, 2016 by introducing section 286 in the Act, has introduced provisions relating to the Country by Country Report (CbCR) and Master File pursuant to adoption of OECD's Base Erosion and Profit Shifting (BEPS), Action Plan 13 in India. Broadly, under these provisions, an international group has to furnish CbCR containing information about the whole group comprising of various constituent entities. Such a report is to be filed in India, if the parent entity is resident of India or the international group has appointed a constituent entity which is resident in India to file CbCR on behalf of the whole group.

THANK YOU !